

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

THOMAS W. SHADWICK,)
v.)
Plaintiff,)
MICHAEL J. ASTRUE,)
Commissioner, Social Security Administration,)
Defendant.)
Case No. 09-CV-739-GKF-FHM

OPINION AND ORDER

Before the court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Frank H. McCarthy. (Dkt. #21). No objections were filed to the R&R. The R&R is a judicial review of the decision of the Michael J. Astrue, Commissioner of the Social Security Administration, to deny the claim of plaintiff Thomas W. Shadwick (“Shadwick”) for Social Security disability benefits under Title XVI of the Social Security Act, 42 U.S.C. § 1382c(a)(3)(A).

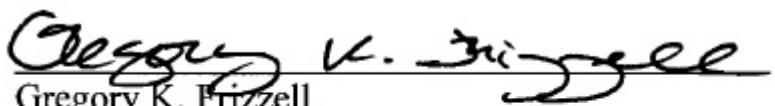
The court has reviewed the R&R to determine “whether the factual findings are supported by substantial evidence in the record and whether the correct legal standards were applied.” *Doyal v. Barnhart*, 331 F.3d 758, 760 (10th Cir. 2003). The court must “neither reweigh the evidence nor substitute [its] judgment for that of the agency.” *White v. Barnhart*, 287 F.3d 903, 905 (10th Cir. 2001) (quoting *Casias v. Sec'y of Health & Human Servs.*, 933 F.2d 799, 800 (10th Cir. 1991)).

The Magistrate Judge determined that the Administrative Law Judge (“ALJ”) failed to articulate his reasons for disregarding the opinion of nurse practitioner Schnell in the case. The Magistrate Judge found that the ALJ should have considered the nurse practitioner’s records and

statements, and articulated the weight that he gave to that evidence. The R&R also recommends that the ALJ explain the weight he accorded evidence from Dr. Karshner's report and his recommendation that Shadwick not work with any vibrating machinery. The Magistrate Judge therefore concluded that the ALJ failed to adequately discuss the weight he accorded the medical evidence and failed to articulate his conclusions concerning Shadwick's Residual Functional Capacity by affirmatively linking those conclusions to the evidence. He further concluded that these errors undermined the ALJ's findings on Shadwick's credibility and his findings at subsequent steps in the evaluative sequence. The court has reviewed the R&R and concurs with the Magistrate Judge's recommendations therein.

For the reasons set forth above, the Report and Recommendation of the Magistrate Judge (Dkt. #21) is accepted and adopted as the order of the court, and the case is remanded to the ALJ for proceedings in accordance therewith.

IT IS SO ORDERED this 9th day of March, 2011.



Gregory K. Frizzell
United States District Judge
Northern District of Oklahoma